

Senate Bill 210

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires certain institutions seeking property tax exemption to file information return that states basis for exemption claim in terms derived from Oregon case law. Requires information return to be accompanied by institution's most recently required and timely filed Form 990 and Form CT-12. Requires institution that files Form 990-N to file information return containing information on institution's most recently required and timely filed Form 990-N. Denies exemption for noncompliance. Provides for clawback of exempt taxes upon discovery that information in return or in exemption claim was misleading or false. Requires county assessors to keep information returns as public records.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to exemption from taxation for property of certain charitable institutions; creating new
3 provisions; amending ORS 307.130; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) As used in this section:**

6 (a) **"Reporting institution" means an incorporated literary, benevolent, charitable or**
7 **scientific institution.**

8 (b) **"Reporting institution" does not mean an art museum, rehabilitation facility or vol-**
9 **unteer fire department as those terms are defined in ORS 307.130 or a retail store described**
10 **in ORS 307.130.**

11 (2)(a) **Except as provided in subsection (5) of this section, a reporting institution seeking**
12 **exemption for property under ORS 307.130 must file an information return that meets the**
13 **requirements of this section with the assessor of the county in which the property is located**
14 **on or before April 1 preceding each tax year for which exemption is claimed.**

15 (b) **When the property to which an information return relates is acquired after March 1**
16 **and before July 1, the information return for that year must be filed within 30 days after the**
17 **date of acquisition of the property.**

18 (c) **The provisions of ORS 307.162 (2) relating to late filing apply to the filing of an in-**
19 **formation return under this section.**

20 (3)(a) **The information return must state:**

21 (A) **The basis for the reporting institution's claim to have charity as its primary object.**

22 (B) **The manner in which the reporting institution performs in furtherance of its chari-**
23 **table object.**

24 (C) **The ways in which the reporting institution's performance involves a gift or giving,**
25 **including the percentage of the reporting institution's total expenses as reported on the re-**
26 **porting institution's Internal Revenue Service Form 990 that involve a gift or giving.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (D) With respect to all property for which exemption is claimed:

2 (i) The basis for claiming that the property is exclusively used by the reporting institu-
3 tion in accomplishing its charitable goals.

4 (ii) The ways in which the property substantially contributes to furthering the reporting
5 institution's charitable goals.

6 (iii) The number of days in the previous property tax year that the property was used for
7 purposes unrelated to the reporting institution's charitable object.

8 (b) Each response under this subsection must be 100 words or less and may include other
9 quantifying statistics in addition to those required.

10 (4) The information return must be accompanied by the most recently required and
11 timely filed Form 990 and Department of Justice Form CT-12 of the reporting institution or
12 by a link to a version of the form that is publicly available on the Internet.

13 (5) Instead of the information return required under this section, a reporting institution
14 that files a Form 990-N with the Internal Revenue Service shall file with the county assessor
15 an information return that contains the information set forth on the most recently required
16 and timely filed Form 990-N of the reporting institution.

17 (6) The Department of Revenue shall prescribe the form of the information return. In-
18 formation returns must be filed under penalties for false swearing.

19 (7) The property of the reporting institution may not be granted exemption under ORS
20 307.130 for the property tax year if:

21 (a) The information return is not timely filed.

22 (b) The information return does not contain the statements required under subsection
23 (3) of this section.

24 (c) The information return is not accompanied by the forms required under subsection
25 (4) of this section.

26 (d) The reporting institution has not filed the most recently required Form 990 or Form
27 CT-12, or Form 990-N, as applicable.

28 (8)(a) For each property tax year that property of a reporting institution subject to this
29 section is exempt under ORS 307.130, the county assessor shall indicate on the assessment
30 and tax roll that the property is exempt from property taxation and is subject to potential
31 additional taxes.

32 (b) Upon discovery by the county assessor that any information set forth in an informa-
33 tion return filed under this section, or in a claim for exemption under ORS 307.130 filed under
34 ORS 307.162, with respect to property described in paragraph (a) of this subsection, was
35 misleading or false, the property shall be disqualified for the exemption. Additional taxes
36 shall be imposed on the property on the next assessment and tax roll following the disquali-
37 fication and shall be collected and distributed in the same manner as other ad valorem
38 property taxes.

39 (c) The additional taxes shall be imposed in an amount equal to the property taxes that
40 were not imposed on the property because of the exemption for up to the five immediately
41 preceding property tax years, plus interest computed at the rate provided under ORS 311.505
42 (2).

43 (d) The additional taxes described in this subsection shall be deemed assessed and im-
44 posed in the year to which the additional taxes relate.

45 (e) The amount determined to be due under this subsection may be paid to the tax col-

lector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

(9) County assessors shall keep information returns filed under this section as public records.

SECTION 2. ORS 307.130, as amended by section 48, chapter 701, Oregon Laws 2015, and section 2, chapter 686, Oregon Laws 2017, is amended to read:

307.130. (1) As used in this section:

(a) "Art museum" means a nonprofit corporation organized to display works of art to the public.

(b) "Nonprofit corporation" means a corporation that:

(A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter 65; or

(B) Is organized and operated as described under section 501(c) of the Internal Revenue Code as defined in ORS 305.842.

(c) "Rehabilitation facility" means a facility defined in ORS 344.710 or a facility that provides individuals who have physical, mental or emotional disabilities with occupational rehabilitation activities of an educational or therapeutic nature, even if remuneration is received by the individual.

(d) "Volunteer fire department" means a nonprofit corporation organized to provide fire protection services in a specific response area.

(e) "Welfare program" means a program to provide food, shelter, clothing or health care, including dental service, to needy persons without charge.

(2) Upon compliance with ORS 307.162, **and, in the case of a reporting institution as defined in section 1 of this 2019 Act, section 1 of this 2019 Act**, the following property owned or being purchased by art museums, volunteer fire departments, or incorporated literary, benevolent, charitable and scientific institutions shall be exempt from taxation:

(a) Except as provided in ORS 748.414, only real or personal property, or a proportion of the property, that is actually and exclusively occupied or used in the literary, benevolent, charitable or scientific work carried on by such institutions.

(b) Parking lots used for parking or any other use as long as that parking or other use is permitted without charge for no fewer than 355 days during the tax year.

(c) All real or personal property of a rehabilitation facility or any retail outlet of the facility, including inventory.

(d) All real and personal property of a retail store dealing exclusively in donated inventory, if the inventory is distributed without cost as part of a welfare program or where the proceeds of the sale of any inventory sold to the general public are used to support a welfare program.

(e) All real and personal property of a retail store if:

(A) The retail store deals on a regular basis in inventory at least one-half of which is donated and consigned;

(B) The individuals who operate the retail store are all individuals who work as volunteers; and

(C) The inventory is either distributed without charge as part of a welfare program, or sold to the general public and the sales proceeds used exclusively to support a welfare program.

(f) The real and personal property of an art museum that is used in conjunction with the public display of works of art or used to educate the public about art, but not including any portion of the art museum's real or personal property that is used to sell, or hold out for sale, works of art, reproductions of works of art or other items to be sold to the public.

(g) All real and personal property of a volunteer fire department that is used in conjunction with

1 services and activities for providing fire protection to all residents within a fire response area.

2 (h) All real and personal property, including inventory, of a retail store owned by a nonprofit
3 corporation if:

4 (A) The retail store deals exclusively in donated inventory; and

5 (B) Proceeds of the retail store sales are used to support a not-for-profit housing program whose
6 purpose is to:

7 (i) Acquire property and construct housing for resale to individuals at or below the cost of ac-
8 quisition and construction; and

9 (ii) Provide loans bearing no interest to individuals purchasing housing through the program.

10 (i) All real and personal property, including inventory, of a retail store owned by a nonprofit
11 corporation if:

12 (A) The retail store deals exclusively in donated inventory;

13 (B) The retail store operates with substantial support from volunteers; and

14 (C) All net proceeds of the retail store sales are donated:

15 (i) To a nonprofit corporation that provides animal rescue services;

16 (ii) To a manufacturer or provider of goods or services in return for which an entity described
17 in sub-subparagraph (i) of this subparagraph receives an equivalent value of goods or services from
18 the manufacturer or provider;

19 (iii) To an entity that provides spaying and neutering services for pets of individuals residing
20 in households with an annual household income at or below 80 percent of the area median income;

21 or

22 (iv) For the purpose of aiding domesticated animals, regardless of whether the animals are in
23 the custody of the county shelter, in furtherance of the purpose for which the nonprofit corporation
24 was organized.

25 (3) An art museum or institution shall not be deprived of an exemption under this section solely
26 because its primary source of funding is from one or more governmental entities.

27 (4) An institution shall not be deprived of an exemption under this section because its purpose
28 or the use of its property is not limited to relieving pain, alleviating disease or removing constraints.

29 **SECTION 3. Section 1 of this 2019 Act and the amendments to ORS 307.130 by section 2
30 of this 2019 Act apply to property tax years beginning on or after July 1, 2020.**

31 **SECTION 4. (1) No later than January 31, 2020, each county assessor shall provide notice
32 of the information return requirements under ORS 307.130 and section 1 of this 2019 Act to
33 all reporting institutions, as defined in section 1 of this 2019 Act, whose property has been
34 granted exemption under ORS 307.130 for the property tax year beginning on July 1, 2019.**

35 **(2) Notwithstanding the filing deadline under section 1 (2) of this 2019 Act, for the prop-
36 erty tax year beginning on July 1, 2020, a reporting institution may file an information return
37 under section 1 of this 2019 Act on or before December 15, 2020, if the return is accompanied
38 by a late filing fee of the greater of \$200 or one-tenth of one percent of the real market value
39 as of the most recent assessment date of the property for which the reporting institution is
40 claiming exemption under ORS 307.130.**

41 **SECTION 5. Section 4 of this 2019 Act is repealed on January 2, 2022.**

42 **SECTION 6. This 2019 Act takes effect on the 91st day after the date on which the 2019
43 regular session of the Eightieth Legislative Assembly adjourns sine die.**